

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

United States of America

v.

Docket No. 2:23-cr-025-1

Scott Clark

SECOND AMENDED PROCEDURAL AND SCHEDULING ORDER

1. The sentencing hearing and/or, if required, an evidentiary or guideline application hearing, is set for Tuesday, May 07, 2024, at 10:00 a.m., at the United States District Court, 11 Elmwood Avenue, Burlington, Vermont.

2. The Court hereby directs the parties to Chapter Six, Part A, of the Sentencing Guidelines, as amended, entitled "SENTENCING PROCEDURES". In addition, the following procedures are intended to supplement Rule 32(a), Federal Rules of Criminal Procedure and Section 6A1.3 of the Sentencing Guidelines. The parties are hereby directed to those citations.

3. Counsel is entitled to attend any interview of the defendant by the probation officer. Counsel shall make him or herself available for such interview within 10 days of defendant's conviction or change of plea, unless granted an extension by the Court.

4. The presentence report shall be provided to counsel for the defendant and counsel for the government. It shall be the responsibility of counsel for the defendant to ensure that the defendant has reviewed and understood the presentence report. The presentence report shall remain a confidential court document pursuant to the provisions of Rule 32, Federal Rules of Criminal Procedure.

5. Within 14 days of receipt of the presentence report, any party disputing sentencing factors or facts material to sentencing, or seeking the inclusion of additional facts or factors material to sentencing in the presentence report, shall make that known to the United States Probation Officer and opposing counsel. After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report that may be necessary. The officer may request counsel for both parties to meet with the officer to discuss unresolved factual and legal issues.

6. The United States Probation Office shall submit the presentence report to the Court and to counsel. If there remain disputed issues which were not resolved, the presentence report shall contain an addendum identifying these to the Court and to the parties, together with the officer's comments thereon. Except for any such unresolved disputed issues, the report of the

presentence investigation may be accepted by the Court as accurate. The Court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of sentence. The probation officer's recommendation on the sentence, if any, shall not be disclosed to the parties.

7. This SCHEDULING ORDER is required to set the sentencing date at least seven (7) business days after the receipt of the presentence report, unless such a delay is waived by the defendant.

8. The parties may request a hearing to resolve any factual or guideline application dispute. Notice of the request for a hearing and/or sentencing memorandum and any affidavits, written exhibits or documentary evidence in support thereof, shall be filed with the Court, opposing counsel and the probation officer **not later than April 26, 2024**.

9. A requested hearing shall be held at the date, time and place set forth at paragraph 1 above, unless the Court advises the parties in advance that a hearing is unnecessary.

10. Not later than **seven (7) days** before the scheduled sentencing date, counsel for the defendant shall file a statement with the Court, signed by the defendant, setting forth that the defendant has read, reviewed and understands the presentence report. If circumstances make it difficult to comply with this requirement, counsel may file a written statement with the Court not less than **seven (7) days** before the scheduled sentencing date advising that the substance of the presentence report has been discussed with the defendant. In that event, a written statement, signed by the defendant acknowledging that he or she has read and understands the presentence report, shall be filed with the Court at the time of the sentencing hearing.

SO ORDERED.

Dated at Burlington, in the District of Vermont this 21st day of December 2023.

/s/ Christina Reiss

U.S. District Judge